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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,312	09/26/2001	Cam Reed JR.	HO-P02301US0	9919

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EXAMINER

COLE, LAURA C

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 06/26/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/964,312

Applicant(s)

REED, CAM

Examiner

Laura C Cole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other:

## DETAILED ACTION

### *Claim Objections*

1. Claims 1-5 are objected to because of the following informalities:

Claim 1 Line 7 and Claim 4 Line 1, is "attachments" meant to be in the singular form, attachment? Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, and 4-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Malless, Jr., USPN 4,447,927.

Malless, Jr. discloses a gutter cleaning apparatus that comprises a scooping head having a blade end and a head attachment end (Figure 1 (12); Column 2 Lines 28-30) and made of plastic (Column 3 Lines 37-40), wherein said blade end is curved in a manner allowing the blade end to fit up and over a gutter (the blade end is the left most end of the scoop shown in Figure 1, wherein side walls 18' curve), a handle (Figure 1 (50)) having a gripping end (outer circumference may be gripped) and a handle

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attachment end (lowermost portion of (50)), attachment poles made of plastic (Figure 1 and Figure 4; Column 3 Lines 44-46), a plurality of cleaning bristles (Figure 1 (24), (26), and (38)). Further, Figure 5 displays an attachment pole (32) having a first pole attachment end (34) and a second pole attachment end (34'), the first pole attachment end being detachably affixed to the head attachment end (30) of the scooping head. Even further, Figure 5 displays a handle (pole beneath (32)) having a gripping end and a handle attachment end (upper portion of pole beneath (32)) detachably affixed to the second pole attachment end (34') (see Column 2 Line 60 to Column 3 Line 5).

3. Claims 1, 2, 5, 8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by McDermott, USPN 5,853,209.

McDermott discloses a rain gutter cleaning apparatus that comprises a scooping head (Figures 1-4 (12)) having a blade end (Figures 3 and 4 at lower portion (40)) and a head attachment end (Figures 3 and 4 (42) or (44)), wherein the blade end is curved in a manner (Figure 3 guard pieces (40) are curved), a handle having a gripping end and a handle attachment end (Figure 1 (22)), with zero attachment poles. The scooping head has a plurality of bristles (Figures 3 and 4 (41)). The handle/pole (Figure 1 (22)) is made of aluminum (Column 3 Lines 13-14) and the scooping head is made out of aluminum (Column 3 Lines 12-13).

4. Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Chisholm, USPN 4,640,540.

Chisholm discloses a gutter cleaning tool that comprises a scooping head (Figures 1-5 (10)) having a blade end (leftmost side of Figure 2) and a head attachment

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end (Figure 2 (18)) wherein the blade end is curved (Figures 1-4), a handle having a gripping end (Figures 1 and 2 (20)), and zero attachment poles. Figure 1 (20) is considered a "pole body" that is affixed to the scooping head.

5. Claims 1, 2, 5, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Morton, USPN 2,677,840.

Morton discloses a table fork cleaner that comprises a "scooping" head (Figures 1-3 prongs) wherein the blade ends are curved (Figures 1-3) each having a blade end (perimeters of prongs) and a head attachment end (Figures 1 and 2 (46) or Figure 3 (76)), a handle having a gripping end and an attachment end (Figures 1 and 2 (34) or Figure 3 (78)), and zero attachment poles. There is a plurality of bristles positioned on the blade end (Figures 1-3 (54)). The scooping head is composed of metal (Column 2 Lines 9-12). Figures 1-3 (34) or (78) is considered a "pole body." Figures 1-3 (36) or (80) is an attachment end.

6. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Nicolette, US Patent Application Publication 2001/0025393.

Nicolette discloses a light pole decorator that comprises a gutter scooping head (Figures I and IV), the scooping head having a blade end (bottom left portion as shown in Figure I) and a head attachment end (top right portion as shown in Figure I) wherein the blade end is curved (Figure I) a handle having a gripping end and a handle attachment end (Figure I telescopic pole), and other pole attachments as shown in Figure IV. There appear to be cleaning bristles on the brushes shown in Figure I and Figure IV. There is a rubber grip attached to the handle gripping end (Figure I). The

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attachment "pole" in Figure IV is comprised of wood or plastic. The scooping head is composed of plastic (Figure IV.) The attachment pole, being the part labeled "wood or future plastic" in Figure IV, has attachment ends to the scooping head (screw for brush shown in Figure IV) and to the telescopic pole (Figure IV).

7. Claims 1, 5, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Kreiser, USPN 5,435,612.

Kreiser discloses an eaves trough cleaner that comprises a scooping head having a blade end (Figure 1 lower left ends) and a head attachment end (Figure 1 (6)) wherein the blade end is curved (Figure 1), a handle having a gripping end (Figure 2 (8)), and zero attachment poles. The scooping head is composed of metal or plastic (Column 2 Lines 10-13). The handle (8) is also a pole with a gripping end.

8. Claims 1, 6, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith, USPN 4,848,818.

Smith discloses a gutter cleaning tool that comprises a scooping head having a blade end (Figure 3, leftmost portion of scoop (10)) and a head attachment end (Figure 3 (12)) wherein the blade end is curved (Figure 3), a handle having a gripping end and a handle attachment end (Figures 1-2 and 5 (16) wherein the attachment end is the threads shown in Figure 5), and an attachment pole joint (Figure 2 (14A and 14B) comprise the attachment ends, also see Figures 3-5).

9. Claims 1, 4-6, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Mason, USPN 5,988,715.

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Mason discloses an apparatus for cleaning drain gutters that comprises a scooping head (Figure 1 (12)) having a blade end (Figure 1, leftmost portion of scoop (12)) and a head attachment end (Figure 1 (13)) wherein the blade end is curved (Figure 4 (15)), a handle having a gripping end and a handle attachment end (Figures 1 (30) is the handle with an attachment end (31) and a gripping end (33)), and an attachment pole (Figure 1 (30)) having first and second attachment ends being detachably affixed (Column 3 Lines 24-37). The scoop is made from metal (Column 2 Lines 61-62 and the attachment pole is made from aluminum (Column 3 line 25).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malless, Jr., USPN 4,447,927 in view of Beers, Jr. et al., USPN 6,393,646.

Malless, Jr. disclose all elements above, however does not disclose a rubber grip on a gripping end.

Beers, Jr. et al. disclose a golf green brush that has a handle (Figures 1-2 (20)) with a rubber grip portion (Figures 1-2 (40); Column 2 Lines 7-16).

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It would have been obvious for one of ordinary skill in the art to modify the gripping portion of the handle of Malless, Jr. by adding a rubber grip as Beers, Jr. et al. teach so that the user has a comfortable grip when manually cleaning a surface.

11. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, USPN 4,848,818.

Smith discloses all elements above, however does not provide specific materials for the scooping head or attachment pole.

It would have been obvious for one having ordinary skill in the art at the time the invention was made to have the materials be from the group wood, plastic, metal, composite material, or a combination of those since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious engineering choice. In re Leshin, 125 USPQ 416.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C Cole whose telephone number is (703) 305-7279. The examiner can normally be reached on Monday-Thursday, 7am - 4:30pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on (703) 308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are (703)



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746-8772 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

LCC

LCC

June 19, 2003

*Robert J. Warden, Sr.*

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